

**ASSEMBLY BILL**

**No. 2654**

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**Introduced by Assembly Member Laird**

February 22, 2008

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An act to amend Sections 50260 and 54701.12 of the Government Code, to amend Section 1365.5 of the Health and Safety Code, to amend Sections 679.71, 679.72, 699.5, 10140, 10141, 11628, and 12095 of the Insurance Code, to amend Section 4600.6 of the Labor Code, and to amend Sections 103 and 14200.1 of the Welfare and Institutions Code, relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 2654, as introduced, Laird. Discrimination.

(1) Existing law provides that the purpose of certain provisions regarding human relations is to promote the establishment in counties and cities and counties throughout the state of commissions designed to foster peaceful relations in the interest of preserving the public peace among citizens of different races, religions, and national origins.

This bill would add ethnic group identification, age, sex, sexual orientation, color, and disability to the characteristics described above.

(2) Existing law allows local agencies to construct or cause to be constructed rental housing for employees. Existing law requires a local agency to require that contractors and subcontractors engaged in construction financed under these provisions provide equal opportunity for employment, without discrimination as to race, sex, marital status, color, religion, national origin, or ancestry, and requires that all contracts and subcontracts for construction financed under this chapter be let without discrimination as to race, sex, marital status, color, religion, national origin, or ancestry.

This bill would, instead, require a local agency to require that the above contractors and subcontractors provide equal opportunity for employment, without discrimination as to marital status, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(3) Existing law prohibits certain property insurers from taking specified actions regarding the issuance or cancellation of insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every marital status, sex, race, color, religion, national origin, or ancestry, and prohibits sex, race, color, religion, national origin, or ancestry from constituting a condition or risk for which a higher rate, premium, or charge may be required of the insured.

This bill would add medical condition, disability, and sexual orientation, as defined, to the characteristics prohibited for use as described above.

(4) Existing law prohibits an application for certain property insurance, or an insurance investigation report furnished by an insurer to its agents or employees for use in determining the insurability of the applicant, from carrying or requiring any identification of the applicant's race, color, religion, national origin, or ancestry.

This bill would, in addition, prohibit an application described above from carrying or requiring any identification of the applicant's medical condition, disability, or sexual orientation, as defined.

(5) Existing law provides that the ownership or financial control of any domestic, foreign, or alien insurer, by any state of the United States or by a foreign government, shall not restrict the Insurance Commissioner from issuing, renewing, or continuing in effect the license of that insurer to transact insurance, unless the commissioner makes any of specified determinations, including that the insurer is subject to governmental practices that discriminate on the basis of race, color, creed, or national origin.

This bill would delete creed from the above list of characteristics relating to governmental discrimination that the Insurance Commissioner may consider, and would add sexual orientation, as defined, to that list.

(6) Existing law prohibits certain insurers licensed to issue and issuing motor vehicle liability policies, as defined, from taking certain actions regarding the issuance or cancellation of that insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every race, language, color,

religion, national origin, ancestry, or the same geographic area, and prohibits race, language, color, religion, national origin, ancestry, or location within a geographic area from constituting a condition or risk for which a higher rate, premium, or charge may be required of the insured.

This bill would, instead, prohibit the above insurers from taking those actions under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every language, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, sexual orientation, or the same geographic area, and would prohibit language, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, sexual orientation, or location within a geographic area from constituting a condition or risk for which a higher rate, premium, or charge may be required of the insured.

(7) Existing law prohibits certain surety insurers from failing or refusing to take specified actions regarding performance bonds under conditions less favorable to the obligor than in other comparable cases, except for reasons applicable alike to persons of every race, color, gender, religion, national origin, ancestry, or geographical area, and prohibits race, color, gender, religion, national origin, ancestry, or location within a county, of itself, from constituting a condition or risk for which a greater rate, premium, charge, guaranty, or collateral may be required of the applicant.

This bill would, instead, prohibit those surety insurers from failing or refusing to take the actions described above under conditions less favorable to the obligor than in other comparable cases, except for reasons applicable alike to persons of every sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, sexual orientation, or geographical area, and would prohibit any of those characteristics, of itself, from constituting a condition or risk for which a greater rate, premium, charge, guaranty, or collateral may be required of the applicant.

(8) Existing law provides for the appointment of persons by a juvenile court as court-appointed special advocates. Existing law provides that an adult otherwise qualified to act as a court-appointed special advocate shall not be discriminated against based upon sex, socioeconomic, religious, racial, ethnic, or age factors.

This bill would provide, instead, that an adult otherwise qualified to act as a court-appointed special advocate shall not be discriminated

against based upon race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, disability, or socioeconomic factors.

(9) Existing law provides that the purpose of certain provisions of law relating to prepaid health plans is to afford persons eligible to receive certain government-supported medical benefits the opportunity to enroll as regular subscribers in prepaid health plans, without reference to the race, sex, age, religion, creed, color, national origin, or ancestry of any eligible person.

This bill would provide, instead, that the purpose of those provisions is to afford persons eligible to receive certain government-supported medical benefits the opportunity to enroll as regular subscribers in prepaid health plans, without reference to race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 50260 of the Government Code is  
2 amended to read:

3 50260. The purpose of this article is to promote the  
4 establishment in counties and cities and counties throughout the  
5 ~~State~~ *state* of commissions designed to foster peaceful relations  
6 in the interest of preserving the public peace among citizens of  
7 different races, religions~~and~~, national origins, *and the other*  
8 *characteristics listed or defined in Section 11135.*

9 SEC. 2. Section 54701.12 of the Government Code is amended  
10 to read:

11 54701.12. A local agency shall require that contractors and  
12 subcontractors engaged in construction financed under this chapter  
13 shall provide equal opportunity for employment, without  
14 discrimination as to ~~race, sex, marital status, color, religion,~~  
15 ~~national origin, or ancestry~~ *or any characteristic listed or defined*  
16 *in Section 11135.* All contracts and subcontracts for construction  
17 financed under this chapter shall be let without discrimination as  
18 to ~~race, sex, marital status, color, religion, national origin, or~~  
19 ~~ancestry~~ *or any of those characteristics.*

1 SEC. 3. Section 1365.5 of the Health and Safety Code is  
2 amended to read:

3 1365.5. (a) No health care service plan or specialized health  
4 care service plan shall refuse to enter into any contract or shall  
5 cancel or decline to renew or reinstate any contract because of the  
6 race, color, national origin, ancestry, religion, sex, marital status,  
7 sexual orientation, *as defined in subdivision (q) of Section 12926*  
8 *of the Government Code*, or age of any contracting party,  
9 prospective contracting party, or person reasonably expected to  
10 benefit from that contract as a subscriber, enrollee, member, or  
11 otherwise.

12 (b) The terms of any contract shall not be modified, and the  
13 benefits or coverage of any contract shall not be subject to any  
14 limitations, exceptions, exclusions, reductions, copayments,  
15 coinsurance, deductibles, reservations, or premium, price, or charge  
16 differentials, or other modifications because of the race, color,  
17 national origin, ancestry, religion, sex, marital status, sexual  
18 orientation, *as defined in subdivision (q) of Section 12926 of the*  
19 *Government Code*, or age of any contracting party, potential  
20 contracting party, or person reasonably expected to benefit from  
21 that contract as a subscriber, enrollee, member, or otherwise; except  
22 that premium, price, or charge differentials because of the sex or  
23 age of any individual when based on objective, valid, and  
24 up-to-date statistical and actuarial data are not prohibited. Nothing  
25 in this section shall be construed to permit a health care service  
26 plan to charge different premium rates to individual enrollees  
27 within the same group solely on the basis of the enrollee's sex.

28 (c) It shall be deemed a violation of subdivision (a) for any  
29 health care service plan to utilize marital status, living  
30 arrangements, occupation, sex, beneficiary designation, ZIP Codes  
31 or other territorial classification, or any combination thereof for  
32 the purpose of establishing sexual orientation. Nothing in this  
33 section shall be construed to alter in any manner the existing law  
34 prohibiting health care service plans from conducting tests for the  
35 presence of human immunodeficiency virus or evidence thereof.

36 (d) This section shall not be construed to limit the authority of  
37 the director to adopt or enforce regulations prohibiting  
38 discrimination because of sex, marital status, or sexual orientation.

39 (e) "Sex" as used in this section shall have the same meaning  
40 as "gender," as defined in Section 422.56 of the Penal Code.

SEC. 4. Section 679.71 of the Insurance Code is amended to read:

679.71. No admitted insurer; *that is* licensed to issue any policy of insurance covered by this chapter; shall fail or refuse to accept an application for, or to issue a policy to an applicant for, ~~such that~~ insurance (unless ~~such~~ *the* insurance is to be issued to the applicant by another insurer under the same management and control), or cancel ~~such that~~ insurance, under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every ~~marital status, sex, race, color, religion, national origin, or ancestry characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code~~; nor shall ~~sex, race, color, religion, national origin, or ancestry~~ any of those characteristics except marital status, of itself, constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for ~~such that~~ insurance.

SEC. 5. Section 679.72 of the Insurance Code is amended to read:

679.72. No application for insurance specified in this chapter or insurance investigation report furnished by ~~such~~ an insurer to its agents or employees for use in determining the insurability of ~~the~~ an applicant shall carry any identification, or any requirement therefor, of ~~the applicant's race, color, religion, national origin, or ancestry~~ any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code with respect to the applicant, except marital status.

SEC. 6. Section 699.5 of the Insurance Code is amended to read:

699.5. (a) The ownership or financial control, in part, direct or indirect, of any domestic, foreign, or alien insurer, by any state of the United States or by a foreign government or by any political subdivision of either, or by an agency of any other state, government, or subdivision thereof, shall not, provided the insurer complies with all other requirements for issuance, renewal, or continuation of a license, restrict the commissioner from issuing, renewing, or continuing in effect the license of that insurer to transact in this state the kinds of insurance business for which that insurer is otherwise qualified under the provisions of this chapter and under its charter, unless the commissioner ~~shall find that (1) the finds that any of the following is true:~~

1 (1) *The insurer is subject to any form of subsidy that would*  
2 *enable it to compete unfairly with domestic insurers;*~~(2) the.~~

3 (2) *The insurer is subject to governmental practices that*  
4 *discriminate on the basis of race, color, ~~creed,~~ or national origin,*  
5 ~~(3) the sex, religion, ancestry, marital status, or sexual orientation,~~  
6 *as defined in subdivision (q) of Section 12926 of the Government*  
7 *Code.*

8 (3) *The ownership or financial control will create the presence*  
9 *of any sovereign immunity in the insurer;*~~(4) appropriate.~~

10 (4) *Appropriate measures and controls do not exist to avoid*  
11 *security problems resulting from an insurer's access to confidential*  
12 *information and data of its insured;*~~or (5) the.~~

13 (5) *The ownership or financial control results in substantial or*  
14 *undue influence being asserted over the insurer.*

15 (b) The failure by any applicant for a license to submit the  
16 information requested by the commissioner for the purposes of  
17 determining whether to make a finding pursuant to subdivision (a)  
18 shall be sufficient to deny the application.

19 (c) Nothing in the amendments to this section enacted during  
20 the 1994 portion of the 1993–94 Regular Session of the Legislature  
21 shall be interpreted to authorize the issuance of a license to an  
22 insurer wholly owned by any governmental entity described in  
23 subdivision (a).

24 SEC. 7. Section 10140 of the Insurance Code is amended to  
25 read:

26 10140. (a) No admitted insurer; *that is* licensed to issue life  
27 or disability insurance; shall fail or refuse to accept an application  
28 for that insurance, to issue that insurance to an applicant therefor,  
29 or issue or cancel that insurance, under conditions less favorable  
30 to the insured than in other comparable cases, except for reasons  
31 applicable alike to persons of every race, color, religion, sex,  
32 national origin, ancestry, or sexual orientation, *as defined in*  
33 *subdivision (q) of Section 12926 of the Government Code.* Race,  
34 color, religion, national origin, ancestry, or sexual orientation shall  
35 not, of itself, constitute a condition or risk for which a higher rate,  
36 premium, or charge may be required of the insured for that  
37 insurance. Unless otherwise prohibited by law, premium, price,  
38 or charge differentials because of the sex of any individual when  
39 based on objective, valid, and up-to-date statistical and actuarial  
40 data or sound underwriting practices are not prohibited.

(b) Except as otherwise permitted by law, no admitted insurer, licensed to issue disability insurance policies for hospital, medical, and surgical expenses, shall fail or refuse to accept an application for that insurance, fail or refuse to issue that insurance to an applicant therefor, cancel that insurance, refuse to renew that insurance, charge a higher rate or premium for that insurance, or offer or provide different terms, conditions, or benefits, or place a limitation on coverage under that insurance, on the basis of a person's genetic characteristics that may, under some circumstances, be associated with disability in that person or that person's offspring.

(c) No admitted insurer, licensed to issue disability insurance for hospital, medical, and surgical expenses, shall seek information about a person's genetic characteristics for any nontherapeutic purpose.

(d) No discrimination shall be made in the fees or commissions of agents or brokers for writing or renewing a policy of disability insurance, other than disability income, on the basis of a person's genetic characteristics that may, under some circumstances, be associated with disability in that person or that person's offspring.

(e) It shall be deemed a violation of subdivision (a) for any insurer to consider sexual orientation in its underwriting criteria or to utilize marital status, living arrangements, occupation, sex, beneficiary designation, ZIP Codes or other territorial classification within this state, or any combination thereof for the purpose of establishing sexual orientation or determining whether to require a test for the presence of the human immunodeficiency virus or antibodies to that virus, where that testing is otherwise permitted by law. Nothing in this section shall be construed to alter, expand, or limit in any manner the existing law respecting the authority of insurers to conduct tests for the presence of human immunodeficiency virus or evidence thereof.

(f) This section shall not be construed to limit the authority of the commissioner to adopt regulations prohibiting discrimination because of sex, marital status, or sexual orientation or to enforce these regulations, whether adopted before or on or after January 1, 1991.

(g) "Genetic characteristics" as used in this section shall have the same meaning as defined in Section 10123.3.



(h) "Sex" as used in this section shall have the same meaning as "gender," as defined in Section 422.56 of the Penal Code.

SEC. 8. Section 10141 of the Insurance Code is amended to read:

10141. No application for insurance or insurance investigation report furnished by such an insurer to its agents or employees for use in determining the ~~insurability~~ *insurability* of the applicant shall carry any identification, or any requirement therefor, of the applicant's race, color, religion, ancestry, ~~or~~ national origin, *or sexual orientation, as defined in subdivision (q) of Section 12926 of the Government Code.*

SEC. 9. Section 11628 of the Insurance Code is amended to read:

11628. (a) (1) No admitted insurer; *that is* licensed to issue and issuing motor vehicle liability policies, as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for that insurance, to issue that insurance to an applicant therefor, or issue or cancel that insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every ~~race, language, color, religion, national origin, ancestry~~ *or characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code*, or persons of the same geographic area; nor shall ~~race, language, color, religion, national origin, ancestry~~ *any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code*, or location within a geographic area, of itself, constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for that insurance.

As

(2) As used in this section "geographic area" means a portion of this state of not less than 20 square miles defined by description in the rating manual of an insurer or in the rating manual of a rating bureau of which the insurer is a member or subscriber. In order that geographic areas used for rating purposes may reflect homogeneity of loss experience, a record of loss experience for the geographic area shall include the breakdown of actual loss experience statistics by ZIP Code area (as designated by the United States Postal Service) within each geographic area for family owned private passenger motor vehicles and lightweight commercial motor vehicles, under 1 ½-ton load capacity, used for

1 local service or retail delivery, normally within a 50-mile radius  
2 of garaging, and ~~which~~ *that* are not part of a fleet of five or more  
3 motor vehicles under one ownership. A record of loss experience  
4 for the geographic area, including that statistical data by ZIP Code  
5 area, shall be submitted annually to the commissioner for  
6 examination by each insurer licensed to issue and issuing motor  
7 vehicle liability policies, motor vehicle physical damage policies,  
8 or both. Loss experience shall include separate loss data for each  
9 type of coverage, including liability or physical damage coverage,  
10 underwritten. That report shall include the insurer's statewide loss  
11 ratio, loss adjustment expense ratio, expense ratio, and combined  
12 ratio on its assigned-risk business. An insurer may satisfy its  
13 obligation to report statistical data under this subdivision by  
14 providing its loss experience data and statewide expense ratio and  
15 combined ratio on its assigned-risk business to a rating or advisory  
16 organization for submission to the commissioner. This data shall  
17 be made available to the public by the commissioner annually after  
18 examination. However, the data shall be released in aggregate form  
19 by ZIP Code in order that no individual insurer's loss experience  
20 for any specific geographic area be revealed. Differentiation in  
21 rates between geographical areas shall not constitute unfair  
22 discrimination.

23 ~~As~~

24 (3) *All* information reported to the department pursuant to this  
25 subdivision shall be confidential.

26 ~~As~~

27 (4) *As* used in this section, ~~(1) "language":~~

28 (A) "*Language*" means the inability to speak, read, write, or  
29 comprehend the English language, ~~(2) "dependents".~~

30 (B) "*Dependents*" shall include, but not be limited to, issue  
31 regardless of generation, ~~and (3) "spouse".~~

32 (C) "*Spouse*" shall be determined without regard to current  
33 marital status.

34 (b) The commissioner may require insurers with combined ratios  
35 on statewide assigned-risk business that are 10 percent above the  
36 mean combined ratio for all plan participants to also report the  
37 following:

38 (1) The reason for the excessive ratio.

39 (2) A plan for reducing the ratio, and when the reduction can  
40 be expected to occur. The commissioner may require insurers

1 subject to this subdivision to provide periodic reports on the  
2 progress in reducing the combined ratio.

3 (c) (1) No admitted insurer, licensed to issue and issuing motor  
4 vehicle liability insurance policies as defined in Section 16450 of  
5 the Vehicle Code, shall fail or refuse to accept an application for  
6 that insurance, refuse to issue that insurance to an applicant  
7 therefor, or cancel that insurance solely for the reason that the  
8 applicant for that insurance or any insured is employed in a specific  
9 occupation, or is on active duty service in the Armed Forces of  
10 the United States.

11 ~~Nothing~~

12 (2) *Nothing* in this section shall prohibit an insurer from *doing*  
13 *any of the following*:

14 ~~(1)~~

15 (A) Considering the occupation of the applicant or insured as a  
16 condition or risk for which a higher rate or discounted rate may  
17 be required or offered for coverage in the course and scope of his  
18 or her occupation.

19 ~~(2)~~

20 (B) Charging a deviated rate to any classification of risks  
21 involving a specific occupation, or grouping thereof, if the rate  
22 meets the requirements of Chapter 9 (commencing with Section  
23 1850) of Part 2 of Division 1 and is based upon actuarial data  
24 which demonstrates a significant actual historical differential  
25 between past losses or expenses attributable to the specific  
26 occupation, or grouping thereof, and the past losses or expenses  
27 attributable to other classification of risks. For purposes of  
28 compiling that actuarial data for a specific occupation or grouping  
29 thereof, a person shall be deemed employed in the occupation in  
30 which that data is compiled if: ~~(A) the~~ *any of the following is true*:

31 (i) *The* majority of his or her employment during the previous  
32 year was in the occupation; ~~or (B) the~~.

33 (ii) *The* majority of his or her aggregate earnings for the  
34 immediate preceding three-year period were derived from the  
35 occupation; ~~or (C) the~~.

36 (iii) *The* person is a member in good standing of a union ~~which~~  
37 *that* is an authorized collective bargaining agent for persons  
38 engaged in the occupation.

39 ~~Nothing~~

1 (3) *Nothing* in this section shall be construed to include in the  
2 definition of “occupation” any status or activity ~~which~~ *that* does  
3 not result in remuneration for work done or services performed,  
4 or self-employment in a business operated out of an applicant’s  
5 or insured’s place of residence or persons engaged in the renting,  
6 leasing, selling, repossessing, rebuilding, wrecking, or salvaging  
7 of motor vehicles.

8 (d) Nothing in this section shall limit or restrict the ability of  
9 an insurer to refuse to accept an application for or refuse to issue  
10 or cancel insurance for the reason that it is a commercial vehicle  
11 or based upon the consideration of a vehicle’s size, weight, design,  
12 or intended use.

13 (e) It is the intent of the Legislature that actuarial data by  
14 occupation may be examined for credibility by the commissioner  
15 on the same basis as any other automobile insurance data which  
16 he or she is empowered to examine.

17 (f) (1) Except as provided in Article 4 (commencing with  
18 Section 11620), nothing in this section or in Article 10  
19 (commencing with Section 1861.01) of Chapter 9 of Part 2 of  
20 Division 1 or in any other provision of this code, shall prohibit an  
21 insurer from limiting the issuance or renewal of insurance, as  
22 defined in subdivision (a) of Section 660, to persons who engage  
23 in, or have formerly engaged in, governmental or military service  
24 or segments of categories thereof, and their spouses, dependents,  
25 direct descendants, and former dependents or spouses.

26 (2) The term “military service” includes, but is not limited to,  
27 officers, warrant officers, and enlisted persons, officer and warrant  
28 officer candidates, cadets or midshipmen at a service academy,  
29 cadets or midshipmen in advance Reserve Officer Training Corps  
30 programs or on Reserve Officer Training Corps program  
31 scholarships, National Guard officer candidates, students in  
32 government-sponsored precommissioning programs, and foreign  
33 military officers while on temporary duty in the United States.

34 (g) Any person subject to regulation by the commissioner  
35 pursuant to this code ~~that~~ *who* fails to comply with a data call  
36 required by the department pursuant to subdivision (a) shall be  
37 liable to the state for a civil penalty in an amount not exceeding  
38 five thousand dollars (\$5,000) for each 30-day period that the  
39 person is not in compliance, unless the failure to comply is willful,  
40 in which case the civil penalty shall be in an amount not to exceed

ten thousand dollars (\$10,000) for each 30-day period that the person is not in compliance, but not to exceed an aggregate amount of one hundred thousand dollars (\$100,000). The commissioner shall collect the amount so payable and may bring an action in the name of the people of the State of California to enforce collection. These penalties shall be in addition to other penalties provided by law.

(h) This section shall be known and may be cited as the “Rosenthal Auto Insurance Nondiscrimination Law.”

SEC. 10. Section 12095 of the Insurance Code is amended to read:

12095. No insurer admitted in this state to issue surety insurance shall fail or refuse to accept an application for a contractor's license or performance bond, or to issue such a bond to an applicant therefor, or refuse or cancel such a bond, under conditions less favorable to the obligor than in other comparable cases, except for reasons applicable alike to persons of every ~~race, color, gender, religion, national origin, ancestry~~ *characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code*, or persons of every geographical area; nor shall ~~race, color, gender, religion, national origin, ancestry~~ *any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code*, or location within a county, of itself, constitute a condition or risk for which a greater rate, premium, charge, guaranty, or collateral may be required of the applicant for such a bond.

SEC. 11. Section 4600.6 of the Labor Code is amended to read:

4600.6. Any workers' compensation insurer, third-party administrator, or other entity seeking certification as a health care organization under subdivision (e) of Section 4600.5 shall be subject to the following rules and procedures:

(a) Each application for authorization as an organization under subdivision (e) of Section 4600.5 shall be verified by an authorized representative of the applicant and shall be in a form prescribed by the administrative director. The application shall be accompanied by the prescribed fee and shall set forth or be accompanied by each and all of the following:

(1) The basic organizational documents of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents and all amendments thereto.

1 (2) A copy of the bylaws, rules, and regulations, or similar  
2 documents regulating the conduct of the internal affairs of the  
3 applicant.

4 (3) A list of the names, addresses, and official positions of the  
5 persons who are to be responsible for the conduct of the affairs of  
6 the applicant, which shall include, among others, all members of  
7 the board of directors, board of trustees, executive committee, or  
8 other governing board or committee, the principal officers, each  
9 shareholder with over 5 percent interest in the case of a corporation,  
10 and all partners or members in the case of a partnership or  
11 association, and each person who has loaned funds to the applicant  
12 for the operation of its business.

13 (4) A copy of any contract made, or to be made, between the  
14 applicant and any provider of health care, or persons listed in  
15 paragraph (3), or any other person or organization agreeing to  
16 perform an administrative function or service for the plan. The  
17 administrative director by rule may identify contracts excluded  
18 from this requirement and make provision for the submission of  
19 form contracts. The payment rendered or to be rendered to the  
20 provider of health care services shall be deemed confidential  
21 information that shall not be divulged by the administrative  
22 director, except that the payment may be disclosed and become a  
23 public record in any legislative, administrative, or judicial  
24 proceeding or inquiry. The organization shall also submit the name  
25 and address of each provider employed by, or contracting with,  
26 the organization, together with his or her license number.

27 (5) A statement describing the organization, its method of  
28 providing for health services, and its physical facilities. If  
29 applicable, this statement shall include the health care delivery  
30 capabilities of the organization, including the number of full-time  
31 and part-time physicians under Section 3209.3, the numbers and  
32 types of licensed or state-certified health care support staff, the  
33 number of hospital beds contracted for, and the arrangements and  
34 the methods by which health care will be provided, as defined by  
35 the administrative director under Sections 4600.3 and 4600.5.

36 (6) A copy of the disclosure forms or materials that are to be  
37 issued to employees.

38 (7) A copy of the form of the contract that is to be issued to any  
39 employer, insurer of an employer, or a group of self-insured  
40 employers.

1 (8) Financial statements accompanied by a report, certificate,  
2 or opinion of an independent certified public accountant. However,  
3 the financial statements from public entities or political  
4 subdivisions of the state need not include a report, certificate, or  
5 opinion by an independent certified public accountant if the  
6 financial statement complies with any requirements that may be  
7 established by regulation of the administrative director.

8 (9) A description of the proposed method of marketing the  
9 organization and a copy of any contract made with any person to  
10 solicit on behalf of the organization or a copy of the form of  
11 agreement used and a list of the contracting parties.

12 (10) A statement describing the service area or areas to be  
13 served, including the service location for each provider rendering  
14 professional services on behalf of the organization and the location  
15 of any other organization facilities where required by the  
16 administrative director.

17 (11) A description of organization grievance procedures to be  
18 utilized as required by this part, and a copy of the form specified  
19 by paragraph (3) of subdivision (j).

20 (12) A description of the procedures and programs for internal  
21 review of the quality of health care pursuant to the requirements  
22 set forth in this part.

23 (13) Evidence of adequate insurance coverage or self-insurance  
24 to respond to claims for damages arising out of the furnishing of  
25 workers' compensation health care.

26 (14) Evidence of adequate insurance coverage or self-insurance  
27 to protect against losses of facilities where required by the  
28 administrative director.

29 (15) Evidence of adequate workers' compensation coverage to  
30 protect against claims arising out of work-related injuries that  
31 might be brought by the employees and staff of an organization  
32 against the organization.

33 (16) Evidence of fidelity bonds in such amount as the  
34 administrative director prescribes by regulation.

35 (17) Other information that the administrative director may  
36 reasonably require.

37 (b) (1) An organization, solicitor, solicitor firm, or  
38 representative may not use or permit the use of any advertising or  
39 solicitation that is untrue or misleading, or any form of disclosure  
40 that is deceptive. For purposes of this chapter:

1 (A) A written or printed statement or item of information shall  
2 be deemed untrue if it does not conform to fact in any respect that  
3 is or may be significant to an employer or employee, or potential  
4 employer or employee.

5 (B) A written or printed statement or item of information shall  
6 be deemed misleading whether or not it may be literally true, if,  
7 in the total context in which the statement is made or the item of  
8 information is communicated, the statement or item of information  
9 may be understood by a person not possessing special knowledge  
10 regarding health care coverage, as indicating any benefit or  
11 advantage, or the absence of any exclusion, limitation, or  
12 disadvantage of possible significance to an employer or employee,  
13 or potential employer or employee.

14 (C) A disclosure form shall be deemed to be deceptive if the  
15 disclosure form taken as a whole and with consideration given to  
16 typography and format, as well as language, shall be such as to  
17 cause a reasonable person, not possessing special knowledge of  
18 workers' compensation health care, and the disclosure form  
19 therefor, to expect benefits, service charges, or other advantages  
20 that the disclosure form does not provide or that the organization  
21 issuing that disclosure form does not regularly make available to  
22 employees.

23 (2) An organization, solicitor, or representative may not use or  
24 permit the use of any verbal statement that is untrue, misleading,  
25 or deceptive or make any representations about health care offered  
26 by the organization or its cost that does not conform to fact. All  
27 verbal statements are to be held to the same standards as those for  
28 printed matter provided in paragraph (1).

29 (c) It is unlawful for any person, including an organization,  
30 subject to this part, to represent or imply in any manner that the  
31 person or organization has been sponsored, recommended, or  
32 approved, or that the person's or organization's abilities or  
33 qualifications have in any respect been passed upon, by the  
34 administrative director.

35 (d) (1) An organization may not publish or distribute, or allow  
36 to be published or distributed on its behalf, any advertisement  
37 unless (A) a true copy thereof has first been filed with the  
38 administrative director, at least 30 days prior to any such use, or  
39 any shorter period as the administrative director by rule or order  
40 may allow, and (B) the administrative director by notice has not



1 found the advertisement, wholly or in part, to be untrue, misleading,  
2 deceptive, or otherwise not in compliance with this part or the  
3 rules thereunder, and specified the deficiencies, within the 30 days  
4 or any shorter time as the administrative director by rule or order  
5 may allow.

6 (2) If the administrative director finds that any advertisement  
7 of an organization has materially failed to comply with this part  
8 or the rules thereunder, the administrative director may, by order,  
9 require the organization to publish in the same or similar medium,  
10 an approved correction or retraction of any untrue, misleading, or  
11 deceptive statement contained in the advertising.

12 (3) The administrative director by rule or order may classify  
13 organizations and advertisements and exempt certain classes,  
14 wholly or in part, either unconditionally or upon specified terms  
15 and conditions or for specified periods, from the application of  
16 subdivision (a).

17 (e) (1) The administrative director shall require the use by each  
18 organization of disclosure forms or materials containing any  
19 information regarding the health care and terms of the workers'  
20 compensation health care contract that the administrative director  
21 may require, so as to afford the public, employers, and employees  
22 with a full and fair disclosure of the provisions of the contract in  
23 readily understood language and in a clearly organized manner.  
24 The administrative director may require that the materials be  
25 presented in a reasonably uniform manner so as to facilitate  
26 comparisons between contracts of the same or other types of  
27 organizations. The disclosure form shall describe the health care  
28 that is required by the administrative director under Sections 4600.3  
29 and 4600.5, and shall provide that all information be in concise  
30 and specific terms, relative to the contract, together with any  
31 additional information as may be required by the administrative  
32 director, in connection with the organization or contract.

33 (2) All organizations, solicitors, and representatives of a  
34 workers' compensation health care provider organization shall,  
35 when presenting any contract for examination or sale to a  
36 prospective employee, provide the employee with a properly  
37 completed disclosure form, as prescribed by the administrative  
38 director pursuant to this section for each contract so examined or  
39 sold.

(3) In addition to the other disclosures required by this section, every organization and any agent or employee of the organization shall, when representing an organization for examination or sale to any individual purchaser or the representative of a group consisting of 25 or fewer individuals, disclose in writing the ratio of premium cost to health care paid for contracts with individuals and with groups of the same or similar size for the organization's preceding fiscal year. An organization may report that information by geographic area, provided the organization identifies the geographic area and reports information applicable to that geographic area.

(4) Where the administrative director finds it necessary in the interest of full and fair disclosure, all advertising and other consumer information disseminated by an organization for the purpose of influencing persons to become members of an organization shall contain any supplemental disclosure information that the administrative director may require.

(f) When the administrative director finds it necessary in the interest of full and fair disclosure, all advertising and other consumer information disseminated by an organization for the purpose of influencing persons to become members of an organization shall contain any supplemental disclosure information that the administrative director may require.

(g) (1) An organization may not refuse to enter into any contract, or may not cancel or decline to renew or reinstate any contract, because of the race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, *as defined in subdivision (q) of Section 12926 of the Government Code*, or age of any contracting party, prospective contracting party, or person reasonably expected to benefit from that contract as an employee or otherwise.

(2) The terms of any contract shall not be modified, and the benefits or coverage of any contract shall not be subject to any limitations, exceptions, exclusions, reductions, copayments, coinsurance, deductibles, reservations, or premium, price, or charge differentials, or other modifications because of the race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, *as defined in subdivision (q) of Section 12926 of the Government Code*, or age of any contracting party, potential contracting party, or person reasonably expected to benefit from

1 that contract as an employee or otherwise; except that premium,  
2 price, or charge differentials because of the sex or age of any  
3 individual when based on objective, valid, and up-to-date statistical  
4 and actuarial data are not prohibited. Nothing in this section shall  
5 be construed to permit an organization to charge different rates to  
6 individual employees within the same group solely on the basis  
7 of the employee's sex.

8 (3) It shall be deemed a violation of subdivision (a) for any  
9 organization to utilize marital status, living arrangements,  
10 occupation, gender, beneficiary designation, ZIP Codes or other  
11 territorial classification, or any combination thereof for the purpose  
12 of establishing sexual orientation. Nothing in this section shall be  
13 construed to alter in any manner the existing law prohibiting  
14 organizations from conducting tests for the presence of human  
15 immunodeficiency virus or evidence thereof.

16 (4) This section shall not be construed to limit the authority of  
17 the administrative director to adopt or enforce regulations  
18 prohibiting discrimination because of sex, marital status, or sexual  
19 orientation.

20 (h) (1) An organization may not use in its name any of the  
21 words "insurance," "casualty," "health care service plan," "health  
22 plan," "surety," "mutual," or any other words descriptive of the  
23 health plan, insurance, casualty, or surety business or use any name  
24 similar to the name or description of any health care service plan,  
25 insurance, or surety corporation doing business in this state unless  
26 that organization controls or is controlled by an entity licensed as  
27 a health care service plan or insurer pursuant to the Health and  
28 Safety Code or the Insurance Code and the organization employs  
29 a name related to that of the controlled or controlling entity.

30 (2) Section 2415 of the Business and Professions Code,  
31 pertaining to fictitious names, does not apply to organizations  
32 certified under this section.

33 (3) An organization or solicitor firm may not adopt a name style  
34 that is deceptive, or one that could cause the public to believe the  
35 organization is affiliated with or recommended by any  
36 governmental or private entity unless this affiliation or endorsement  
37 exists.

38 (i) Each organization shall meet the following requirements:

39 (1) All facilities located in this state, including, but not limited  
40 to, clinics, hospitals, and skilled nursing facilities, to be utilized

1 by the organization shall be licensed by the State Department of  
2 Health Services, if that licensure is required by law. Facilities not  
3 located in this state shall conform to all licensing and other  
4 requirements of the jurisdiction in which they are located.

5 (2) All personnel employed by or under contract to the  
6 organization shall be licensed or certified by their respective board  
7 or agency, where that licensure or certification is required by law.

8 (3) All equipment required to be licensed or registered by law  
9 shall be so licensed or registered and the operating personnel for  
10 that equipment shall be licensed or certified as required by law.

11 (4) The organization shall furnish services in a manner providing  
12 continuity of care and ready referral of patients to other providers  
13 at any time as may be appropriate and consistent with good  
14 professional practice.

15 (5) All health care shall be readily available at reasonable times  
16 to all employees. To the extent feasible, the organization shall  
17 make all health care readily accessible to all employees.

18 (6) The organization shall employ and utilize allied health  
19 manpower for the furnishing of health care to the extent permitted  
20 by law and consistent with good health care practice.

21 (7) The organization shall have the organizational and  
22 administrative capacity to provide services to employees. The  
23 organization shall be able to demonstrate to the department that  
24 health care decisions are rendered by qualified providers,  
25 unhindered by fiscal and administrative management.

26 (8) All contracts with employers, insurers of employers, and  
27 self-insured employers and all contracts with providers, and other  
28 persons furnishing services, equipment, or facilities to or in  
29 connection with the workers' compensation health care  
30 organization, shall be fair, reasonable, and consistent with the  
31 objectives of this part.

32 (9) Each organization shall provide to employees all workers'  
33 compensation health care required by this code. The administrative  
34 director shall not determine the scope of workers' compensation  
35 health care to be offered by an organization.

36 (j) (1) Every organization shall establish and maintain a  
37 grievance system approved by the administrative director under  
38 which employees may submit their grievances to the organization.  
39 Each system shall provide reasonable procedures in accordance  
40 with regulations adopted by the administrative director that shall

1 ensure adequate consideration of employee grievances and  
2 rectification when appropriate.

3 (2) Every organization shall inform employees upon enrollment  
4 and annually thereafter of the procedures for processing and  
5 resolving grievances. The information shall include the location  
6 and telephone number where grievances may be submitted.

7 (3) Every organization shall provide forms for complaints to be  
8 given to employees who wish to register written complaints. The  
9 forms used by organizations shall be approved by the  
10 administrative director in advance as to format.

11 (4) The organization shall keep in its files all copies of  
12 complaints, and the responses thereto, for a period of five years.

13 (k) Every organization shall establish procedures in accordance  
14 with regulations of the administrative director for continuously  
15 reviewing the quality of care, performance of medical personnel,  
16 utilization of services and facilities, and costs. Notwithstanding  
17 any other provision of law, there shall be no monetary liability on  
18 the part of, and no cause of action for damages shall arise against,  
19 any person who participates in quality of care or utilization reviews  
20 by peer review committees that are composed chiefly of physicians,  
21 as defined by Section 3209.3, for any act performed during the  
22 reviews if the person acts without malice, has made a reasonable  
23 effort to obtain the facts of the matter, and believes that the action  
24 taken is warranted by the facts, and neither the proceedings nor  
25 the records of the reviews shall be subject to discovery, nor shall  
26 any person in attendance at the reviews be required to testify as to  
27 what transpired thereat. Disclosure of the proceedings or records  
28 to the governing body of an organization or to any person or entity  
29 designated by the organization to review activities of the  
30 committees shall not alter the status of the records or of the  
31 proceedings as privileged communications.

32 The above prohibition relating to discovery or testimony does  
33 not apply to the statements made by any person in attendance at a  
34 review who is a party to an action or proceeding the subject matter  
35 of which was reviewed, or to any person requesting hospital staff  
36 privileges, or in any action against an insurance carrier alleging  
37 bad faith by the carrier in refusing to accept a settlement offer  
38 within the policy limits, or to the administrative director in  
39 conducting surveys pursuant to subdivision (o).

1 This section shall not be construed to confer immunity from  
2 liability on any workers' compensation health care organization.  
3 In any case in which, but for the enactment of the preceding  
4 provisions of this section, a cause of action would arise against an  
5 organization, the cause of action shall exist notwithstanding the  
6 provisions of this section.

7 (l) Nothing in this chapter shall be construed to prevent an  
8 organization from utilizing subcommittees to participate in peer  
9 review activities, nor to prevent an organization from delegating  
10 the responsibilities required by subdivision (i) as it determines to  
11 be appropriate, to subcommittees including subcommittees  
12 composed of a majority of nonphysician health care providers  
13 licensed pursuant to the Business and Professions Code, as long  
14 as the organization controls the scope of authority delegated and  
15 may revoke all or part of this authority at any time. Persons who  
16 participate in the subcommittees shall be entitled to the same  
17 immunity from monetary liability and actions for civil damages  
18 as persons who participate in organization or provider peer review  
19 committees pursuant to subdivision (i).

20 (m) Every organization shall have and shall demonstrate to the  
21 administrative director that it has all of the following:

- 22 (1) Adequate provision for continuity of care.  
23 (2) A procedure for prompt payment and denial of provider  
24 claims.

25 (n) Every contract between an organization and an employer or  
26 insurer of an employer, and every contract between any  
27 organization and a provider of health care, shall be in writing.

28 (o) (1) The administrative director shall conduct periodically  
29 an onsite medical survey of the health care delivery system of each  
30 organization. The survey shall include a review of the procedures  
31 for obtaining health care, the procedures for regulating utilization,  
32 peer review mechanisms, internal procedures for assuring quality  
33 of care, and the overall performance of the organization in  
34 providing health care and meeting the health needs of employees.

35 (2) The survey shall be conducted by a panel of qualified health  
36 professionals experienced in evaluating the delivery of workers'  
37 compensation health care. The administrative director shall be  
38 authorized to contract with professional organizations or outside  
39 personnel to conduct medical surveys. These organizations or

1 personnel shall have demonstrated the ability to objectively  
2 evaluate the delivery of this health care.

3 (3) Surveys performed pursuant to this section shall be  
4 conducted as often as deemed necessary by the administrative  
5 director to assure the protection of employees, but not less  
6 frequently than once every three years. Nothing in this section  
7 shall be construed to require the survey team to visit each clinic,  
8 hospital, office, or facility of the organization.

9 (4) Nothing in this section shall be construed to require the  
10 medical survey team to review peer review proceedings and records  
11 conducted and compiled under this section or in medical records.  
12 However, the administrative director shall be authorized to require  
13 onsite review of these peer review proceedings and records or  
14 medical records where necessary to determine that quality health  
15 care is being delivered to employees. Where medical record review  
16 is authorized, the survey team shall ensure that the confidentiality  
17 of the physician-patient relationship is safeguarded in accordance  
18 with existing law and neither the survey team nor the administrative  
19 director or the administrative director's staff may be compelled to  
20 disclose this information except in accordance with the  
21 physician-patient relationship. The administrative director shall  
22 ensure that the confidentiality of the peer review proceedings and  
23 records is maintained. The disclosure of the peer review  
24 proceedings and records to the administrative director or the  
25 medical survey team shall not alter the status of the proceedings  
26 or records as privileged and confidential communications.

27 (5) The procedures and standards utilized by the survey team  
28 shall be made available to the organizations prior to the conducting  
29 of medical surveys.

30 (6) During the survey, the members of the survey team shall  
31 offer such advice and assistance to the organization as deemed  
32 appropriate.

33 (7) The administrative director shall notify the organization of  
34 deficiencies found by the survey team. The administrative director  
35 shall give the organization a reasonable time to correct the  
36 deficiencies, and failure on the part of the organization to comply  
37 to the administrative director's satisfaction shall constitute cause  
38 for disciplinary action against the organization.

39 (8) Reports of all surveys, deficiencies, and correction plans  
40 shall be open to public inspection, except that no surveys,

1 deficiencies or correction plans shall be made public unless the  
2 organization has had an opportunity to review the survey and file  
3 a statement of response within 30 days, to be attached to the report.

4 (p) (1) All records, books, and papers of an organization,  
5 management company, solicitor, solicitor firm, and any provider  
6 or subcontractor providing medical or other services to an  
7 organization, management company, solicitor, or solicitor firm  
8 shall be open to inspection during normal business hours by the  
9 administrative director.

10 (2) To the extent feasible, all the records, books, and papers  
11 described in paragraph (1) shall be located in this state. In  
12 examining those records outside this state, the administrative  
13 director shall consider the cost to the organization, consistent with  
14 the effectiveness of the administrative director's examination, and  
15 may upon reasonable notice require that these records, books, and  
16 papers, or a specified portion thereof, be made available for  
17 examination in this state, or that a true and accurate copy of these  
18 records, books, and papers, or a specified portion thereof, be  
19 furnished to the administrative director.

20 (q) (1) The administrative director shall conduct an examination  
21 of the administrative affairs of any organization, and each person  
22 with whom the organization has made arrangements for  
23 administrative, or management services, as often as deemed  
24 necessary to protect the interest of employees, but not less  
25 frequently than once every five years.

26 (2) The expense of conducting any additional or nonroutine  
27 examinations pursuant to this section, and the expense of  
28 conducting any additional or nonroutine medical surveys pursuant  
29 to subdivision (o) shall be charged against the organization being  
30 examined or surveyed. The amount shall include the actual salaries  
31 or compensation paid to the persons making the examination or  
32 survey, the expenses incurred in the course thereof, and overhead  
33 costs in connection therewith as fixed by the administrative  
34 director. In determining the cost of examinations or surveys, the  
35 administrative director may use the estimated average hourly cost  
36 for all persons performing examinations or surveys of workers'  
37 compensation health care organizations for the fiscal year. The  
38 amount charged shall be remitted by the organization to the  
39 administrative director.



1 (3) Reports of all examinations shall be open to public  
2 inspection, except that no examination shall be made public, unless  
3 the organization has had an opportunity to review the examination  
4 report and file a statement or response within 30 days, to be  
5 attached to the report.

6 SEC. 12. Section 103 of the Welfare and Institutions Code is  
7 amended to read:

8 103. (a) Persons acting as a CASA shall be individuals who  
9 have demonstrated an interest in children and their welfare. Each  
10 CASA shall participate in a training course conducted under the  
11 rules and regulations adopted by the Judicial Council and in  
12 ongoing training and supervision throughout his or her involvement  
13 in the program. Each CASA shall be evaluated before and after  
14 initial training to determine his or her fitness for these  
15 responsibilities. Ongoing training shall be provided at least  
16 monthly.

17 (b) Each CASA shall commit a minimum of one year of service  
18 to a child until a permanent placement is achieved for the child or  
19 until relieved by the court, whichever is first. At the end of each  
20 year of service, the CASA, with the approval of the court, may  
21 recommit for an additional year.

22 (c) A CASA shall have no associations ~~which~~ *that* create a  
23 conflict of interest with his or her duties as a CASA.

24 (d) An adult otherwise qualified to act as a CASA shall not be  
25 discriminated against based upon ~~sex, socioeconomic, religious,~~  
26 ~~racial, ethnic, or age~~ factors, *or because of any characteristic listed*  
27 *or defined in Section 11135 of the Government Code.*

28 (e) Each CASA is an officer of the court, with the relevant rights  
29 and responsibilities that pertain to that role and shall act  
30 consistently with the local rules of court pertaining to CASAs.

31 (f) Each CASA shall be sworn in by a superior court judge or  
32 commissioner before beginning his or her duties.

33 (g) A judge may appoint a CASA when, in the opinion of the  
34 judge, a child requires services which can be provided by the  
35 CASA, consistent with the local rules of court.

36 (h) To accomplish the appointment of a CASA, the judge  
37 making the appointment shall sign an order, which may grant the  
38 CASA the authority to review specific relevant documents and  
39 interview parties involved in the case, as well as other persons  
40 having significant information relating to the child, to the same

1 extent as any other officer of the court appointed to investigate  
2 proceedings on behalf of the court.

3 SEC. 13. Section 14200.1 of the Welfare and Institutions Code  
4 is amended to read:

5 14200.1. The purpose of this chapter is to afford persons  
6 eligible to receive benefits under Chapter 7 (commencing with  
7 Section 14000) of this part the opportunity to enroll as regular  
8 subscribers in prepaid health plans, without reference to ~~the race,~~  
9 ~~sex, age, religion, creed, color, national origin or ancestry of any~~  
10 ~~eligible person~~ *any characteristic listed or defined in Section 11135*  
11 *of the Government Code.*